

Assembly Bill No. 293

CHAPTER 233

An act to amend Sections 19804, 19805, 19824, 19841, 19846, 19851, 19852, 19868, 19880, 19882, 19890, 19892, 19893, 19900, 19912, 19921, 19932, 19941, and 19984 of, to amend the heading of Article 6 (commencing with Section 19890) of Chapter 5 of Division 8 of, and to add Sections 19890.5 and 19966 to, the Business and Professions Code, relating to gambling.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 293, Mendoza. Gambling regulation.

(1) The Gambling Control Act provides for the licensure of certain individuals and establishments involved in various gambling activities, and for the regulation of those activities, by the California Gambling Control Commission. Existing law provides for the enforcement of those activities by the Department of Justice. Any violation of these provisions is punishable as a misdemeanor, as specified.

Existing law provides that no temporary injunction or other provisional order shall issue to restrain, stay, or otherwise interfere with any action by the department or the commission, except as specified, and that no order may be effective for more than 15 calendar days.

This bill instead would provide that, except for preliminary injunctions, no order may be effective for more than 15 calendar days, and no preliminary order may be effective for more than 45 days, except by stipulation of the department or commission.

(2) Existing law authorizes the commission, for any cause deemed reasonable by the commission, to deny any application for a license, permit, or approval, to limit, condition, or restrict any license, permit, or approval, or to impose any fine upon any person licensed or approved.

This bill would further authorize the commission to condition, restrict, discipline, or take action against the license of an individual owner endorsed on the license certificate of the gambling enterprise whether or not the commission takes action against the license of the gambling enterprise.

This bill would also expand the definition of "license" to include any license issued by the commission pursuant to or adopted pursuant to the Gambling Control Act.

(3) Existing law authorizes the commission to adopt regulations for the administration and enforcement of the Gambling Control Act. The regulations adopted by the commission are required to prohibit gambling establishments from cashing checks drawn against any federal, state, or

county fund. Existing law requires gambling establishments to send the department copies of all dishonored or uncollectible checks at the end of each quarter.

This bill would require the regulations to prohibit gambling enterprises from cashing checks drawn against any federal, state, or county fund, and would delete the requirement that copies of dishonored or uncollectible checks be sent to the department. The bill also would require the regulations, by December 31, 2011, to provide procedures, criteria, and timelines for the processing and approval of applications for the licensing, temporary or interim licensing, or findings of suitability for receivers, trustees, beneficiaries, executors, administrators, conservators, successors in interest, or security interest holders for a gambling enterprise so that gambling enterprises may operate continuously in cases including, but not limited to, the death, insolvency, foreclosure, receivership, or incapacity of a licensee.

(4) Existing law provides that the owner of a gambling enterprise shall apply for and obtain a state gambling license and other persons who obtain a state gambling license or key employee license shall not receive a separate license certificate.

This bill would designate the owner of a gambling enterprise as the owner-licensee, delete an obsolete cross-reference, and make other conforming changes.

(5) Existing law provides that an owner of a gambling enterprise that is not a natural person shall not be eligible for a state gambling license unless certain persons individually apply for and obtain a state gambling license, except as specified.

This bill would define “gambling enterprise” for purposes of these provisions, and would require that, if the owner is a limited liability company, every officer, manager, member, or owner apply for and obtain a state gambling license as described above. The bill would make other conforming changes.

(6) Existing law requires the department to investigate an applicant for a gambling license. Existing law provides that, if denial of the application, or approval of the license with restrictions or conditions on the license, is recommended, the head of the entity within the department that is responsible for enforcing these provisions shall prepare and file with the commission his or her written reasons upon which the recommendation is based.

This bill would, in addition, require the head of that entity within the department to file with the commission the reasons for his or her recommendation if he or she recommends approval of the license with restrictions or conditions. The bill also would require the head of that entity to inform the applicant in writing generally of the basis for any proposed recommendation that the application be restricted or conditioned, as specified.

(7) Existing law requires a corporation to comply with specified requirements in order to obtain a gambling license, including a requirement that the corporation register as a corporation with the department and supply specified supplemental information to the department.

This bill would instead require a corporation to supply supplemental forms and information with the initial license application, and thereafter only on request, to the department, as specified.

(8) Existing law requires the owner of any security issued by a corporation that applies for or holds an owner license to immediately offer the security to the issuing corporation for purchase, if at any time the commission denies a license to the individual owner of the security.

This bill would instead require the commission, if at any time it denies a license to, or revokes the license of, an individual owner of any security issued by a corporation that applies for or holds an owner license, to immediately notify the individual and the corporation of that fact. The bill would require the owner of the security to sell the security, as specified.

(9) Existing law requires a limited partnership to comply with specified requirements in order to obtain a gambling license, including a requirement that the limited partnership be formed under the laws of this state.

This bill would impose on all partnerships the requirements for obtaining a gambling license that are applicable to limited partnerships, and would require that a partnership be registered as may be required under the laws of this state instead of being formed under the laws of this state. The bill would modify other applicable requirements, including imposing on partnerships the requirement described in paragraph (6) relative to corporations. The bill would also require that limited liability companies comply with parallel requirements in order to obtain a gambling license.

(10) Under existing law, the purported sale, assignment, transfer, pledge, or other disposition of any interest in a limited partnership that holds a gambling license, or the grant of an option to purchase the interest, is void unless approved in advance by the commission. Existing law also requires the commission, if at any time it denies a license to an individual owner of any interest in a limited partnership that holds a gambling license, to immediately notify the partnership of that fact, and requires the partnership to return to the denied owner of the interest in cash the amount of his or her capital account, as specified.

This bill would make these provisions applicable to all partnerships and limited liability companies that hold a gambling license, would require the commission to give notice to the individual owner of the interest when it denies or revokes the license of the individual, and would require that individual to sell his or her interest, as specified.

(11) Existing law requires that, to the extent required by specified provisions of law, certain persons associated with a limited partnership that holds or applies for a license to own a gambling enterprise be licensed individually.

This bill would include members and managers among the persons to whom the above requirement applies and would impose the requirement, in addition, on those persons if they are associated with any partnership or limited liability company that holds or applies for a license to own a gambling enterprise.

(12) Existing law prohibits certain security interests from being enforced without the prior approval of the commission and compliance with certain regulations adopted by the department, including a security interest in a security issued by a partnership, except as specified. The department is required to adopt regulations establishing the procedure for the enforcement of a security interest.

This bill would, in addition, prohibit enforcement of a security interest without the above approval if the security interest is in a security issued by a limited partnership or limited liability company. The bill would instead require the commission to adopt those regulations.

(13) Existing law requires an order of the commission denying an application for a work permit to be reviewed in accordance with specified provisions of law.

This bill would, in addition, apply the above requirement to an order of the commission placing restrictions or conditions on a work permit.

(14) Existing law prohibits permitting any person under 21 years of age from entering upon the premises of a licensed gambling establishment, except for limited areas, as specified, and requires a separate entrance to those areas.

This bill would include among those exceptions a designated pathway to reach those permissible areas, would delete the requirement for a separate entrance, and would permit passage of a person under 21 years of age through the gaming floor by way of a designated pathway if accompanied by a person over 21 years of age or an employee of the gambling establishment.

(15) Existing law provides that any person aggrieved by a final decision or order of the commission that limits, conditions, suspends, or revokes any previously granted license or approval, made after hearing by the commission, may petition the Superior Court for the County of Sacramento for judicial review pursuant to specified provisions of law. Existing law provides that the court may summarily deny the petition, or the court may issue an alternative writ directing the commission to certify the whole record of the department in the case to the court. Existing law requires that, if an alternative writ issues, the cause be heard on the whole record of the department as certified by the commission.

This bill would, instead, with respect to the above alternative writ, authorize the court to issue that writ to certify the whole record in the case to the court, and would require that, if the alternative writ issues, the cause be heard on the whole record as certified by the commission.

(16) The Gambling Control Act authorizes a city or county to permit controlled gambling, consistent with state law, if a majority of voters affirmatively approve an ordinance so permitting, as specified. That law authorizes an amendment of an ordinance permitting an expansion of gambling, within a specified limit, without voter approval, and also authorizes, without voter approval, an amendment to an ordinance permitting an increase of 24.99% in the number of gambling tables that may be operated

in a gambling establishment or 2 gambling tables, whichever is greater, compared to the ordinance in effect on January 1, 1996.

This bill would authorize, if a gambling establishment is located in an unincorporated area annexed by a city without a local election other than the election to approve the annexation, the city acquiring jurisdiction to adopt an ordinance permitting and regulating controlled gaming in the existing gambling establishment, providing hours of operation, the games to be played, wagering limits, the maximum number of gambling establishments, and the maximum number of tables permitted in each gambling establishment, the same as those limits in any ordinance or resolutions that formerly applied to the gambling establishment.

(17) Because any violation of these provisions would be punishable as a misdemeanor, the bill would impose a state-mandated local program by creating a new crime.

(18) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 19804 of the Business and Professions Code is amended to read:

19804. (a) In any action for declaratory or injunctive relief, or for relief by way of any extraordinary writ, other than an action initiated pursuant to Section 19932, wherein the construction, application, or enforcement of this chapter, or any regulation adopted pursuant thereto, or any order of the department or the commission issued pursuant thereto, is called into question, a court shall not grant any preliminary or permanent injunction, or any peremptory writ of mandate, certiorari, or prohibition, in connection therewith, except as follows:

(1) Upon proof by clear and convincing evidence that the department or the commission is abusing or threatens to abuse its discretion.

(2) Upon proof by clear and convincing evidence that the department or the commission is exceeding or threatens to exceed its jurisdiction.

(b) No temporary injunction or other provisional order shall issue to restrain, stay, or otherwise interfere with any action by the department or the commission, except upon a finding by the court, based on clear and convincing evidence, that the public interest will not be prejudiced thereby, and, except for preliminary injunctions, no order may be effective for more than 15 calendar days, except by stipulation of the department or commission. No preliminary order may be effective for more than 45 days, except by stipulation of the department or commission.

(c) This section does not relieve a petitioner's obligation to exhaust administrative remedies.

(d) In an action for relief of any nature wherein the construction, application, or enforcement of this chapter, or any regulation adopted pursuant thereto, or any order of the department or commission issued pursuant thereto, is called into question, the party filing the pleading shall furnish a copy thereof to the department and to the commission. The copy shall be furnished by the party filing the pleading within 10 business days after filing.

SEC. 2. Section 19805 of the Business and Professions Code is amended to read:

19805. As used in this chapter, the following definitions shall apply:

(a) “Affiliate” means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, a specified person.

(b) “Applicant” means any person who has applied for, or is about to apply for, a state gambling license, a key employee license, a registration, a finding of suitability, a work permit, a manufacturer’s or distributor’s license, or an approval of any act or transaction for which the approval or authorization of the commission or department is required or permitted under this chapter.

(c) “Banking game” or “banked game” does not include a controlled game if the published rules of the game feature a player-dealer position and provide that this position must be continuously and systematically rotated amongst each of the participants during the play of the game, ensure that the player-dealer is able to win or lose only a fixed and limited wager during the play of the game, and preclude the house, another entity, a player, or an observer from maintaining or operating as a bank during the course of the game. For purposes of this section, it is not the intent of the Legislature to mandate acceptance of the deal by every player if the department finds that the rules of the game render the maintenance of or operation of a bank impossible by other means. The house shall not occupy the player-dealer position.

(d) “Chief” means the head of the entity within the department that is responsible for fulfilling the obligations imposed upon the department by this chapter.

(e) “Commission” means the California Gambling Control Commission.

(f) “Controlled gambling” means to deal, operate, carry on, conduct, maintain, or expose for play any controlled game.

(g) “Controlled game” means any controlled game, as defined by subdivision (e) of Section 337j of the Penal Code.

(h) “Department” means the Department of Justice.

(i) “Director” means any director of a corporation or any person performing similar functions with respect to any organization.

(j) “Finding of suitability” means a finding that a person meets the qualification criteria described in subdivisions (a) and (b) of Section 19857, and that the person would not be disqualified from holding a state gambling license on any of the grounds specified in Section 19859.

(k) “Game” and “gambling game” means any controlled game.

(l) “Gambling” means to deal, operate, carry on, conduct, maintain, or expose for play any controlled game.

(m) “Gambling enterprise” means a natural person or an entity, whether individual, corporate, or otherwise, that conducts a gambling operation and that by virtue thereof is required to hold a state gambling license under this chapter.

(n) “Gambling enterprise employee” means any natural person employed in the operation of a gambling enterprise, including, without limitation, dealers, floor personnel, security employees, countroom personnel, cage personnel, collection personnel, surveillance personnel, data-processing personnel, appropriate maintenance personnel, waiters and waitresses, and secretaries, or any other natural person whose employment duties require or authorize access to restricted gambling establishment areas.

(o) “Gambling establishment,” “establishment,” or “licensed premises,” except as otherwise defined in Section 19812, means one or more rooms where any controlled gambling or activity directly related thereto occurs.

(p) “Gambling license” or “state gambling license” means any license issued by the state that authorizes the person named therein to conduct a gambling operation.

(q) “Gambling operation” means exposing for play one or more controlled games that are dealt, operated, carried on, conducted, or maintained for commercial gain.

(r) “Gross revenue” means the total of all compensation received for conducting any controlled game, and includes interest received in payment for credit extended by an owner licensee to a patron for purposes of gambling, except as provided by regulation.

(s) “Hours of operation” means the period during which a gambling establishment is open to conduct the play of controlled games within a 24-hour period. In determining whether there has been expansion of gambling relating to “hours of operation,” the department shall consider the hours in the day when the local ordinance permitted the gambling establishment to be open for business on January 1, 1996, and compare the current ordinance and the hours during which the gambling establishment may be open for business. The fact that the ordinance was amended to permit gambling on a day, when gambling was not permitted on January 1, 1996, shall not be considered in determining whether there has been gambling in excess of that permitted by Section 19961.

(t) “House” means the gambling enterprise, and any owner, shareholder, partner, key employee, or landlord thereof.

(u) “Independent agent,” except as provided by regulation, means any person who does either of the following:

(1) Collects debt evidenced by a credit instrument.

(2) Contracts with an owner licensee, or an affiliate thereof, to provide services consisting of arranging transportation or lodging for guests at a gambling establishment.

(v) “Initial license” means the license first issued to a person authorizing that person to commence the activities authorized by that license.

(w) “Institutional investor” means any retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees, any investment company registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), any collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency, any closed-end investment trust, any chartered or licensed life insurance company or property and casualty insurance company, any banking and other chartered or licensed lending institution, any investment advisor registered under the Investment Advisors Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.) acting in that capacity, and other persons as the commission may determine for reasons consistent with the policies of this chapter.

(x) “Key employee” means any natural person employed in the operation of a gambling enterprise in a supervisory capacity or empowered to make discretionary decisions that regulate gambling operations, including, without limitation, pit bosses, shift bosses, credit executives, cashier operations supervisors, gambling operation managers and assistant managers, managers or supervisors of security employees, or any other natural person designated as a key employee by the department for reasons consistent with the policies of this chapter.

(y) “Key employee license” means a state license authorizing the holder to be employed as a key employee.

(z) “License” means a gambling license, key employee license, or any other license issued by the commission pursuant to this chapter or regulations adopted pursuant to this chapter.

(aa) “Licensed gambling establishment” means the gambling premises encompassed by a state gambling license.

(ab) “Limited partnership” means a partnership formed by two or more persons having as members one or more general partners and one or more limited partners.

(ac) “Limited partnership interest” means the right of a general or limited partner to any of the following:

(1) To receive from a limited partnership any of the following:

(A) A share of the revenue.

(B) Any other compensation by way of income.

(C) A return of any or all of his or her contribution to capital of the limited partnership.

(2) To exercise any of the rights provided under state law.

(ad) “Owner licensee” means an owner of a gambling enterprise who holds a state gambling license.

(ae) “Person,” unless otherwise indicated, includes a natural person, corporation, partnership, limited partnership, trust, joint venture, association, or any other business organization.

(af) “Player” means a patron of a gambling establishment who participates in a controlled game.

(ag) “Player-dealer” and “controlled game featuring a player-dealer position” refer to a position in a controlled game, as defined by the approved

rules for that game, in which seated player participants are afforded the temporary opportunity to wager against multiple players at the same table, provided that this position is rotated amongst the other seated players in the game.

(ah) “Publicly traded racing association” means a corporation licensed to conduct horse racing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) whose stock is publicly traded.

(ai) “Qualified racing association” means a corporation licensed to conduct horse racing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) that is a wholly owned subsidiary of a corporation whose stock is publicly traded.

(aj) “Renewal license” means the license issued to the holder of an initial license that authorizes the license to continue beyond the expiration date of the initial license.

(ak) “Work permit” means any card, certificate, or permit issued by the commission, or by a county, city, or city and county, whether denominated as a work permit, registration card, or otherwise, authorizing the holder to be employed as a gambling enterprise employee or to serve as an independent agent. A document issued by any governmental authority for any employment other than gambling is not a valid work permit for the purposes of this chapter.

SEC. 3. Section 19824 of the Business and Professions Code is amended to read:

19824. The commission shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of this chapter, including, without limitation, the power to do all of the following:

(a) Require any person to apply for a license, permit, registration, or approval as specified in this chapter, or regulations adopted pursuant to this chapter.

(b) For any cause deemed reasonable by the commission, deny any application for a license, permit, or approval provided for in this chapter or regulations adopted pursuant to this chapter, limit, condition, or restrict any license, permit, or approval, or impose any fine upon any person licensed or approved. The commission may condition, restrict, discipline, or take action against the license of an individual owner endorsed on the license certificate of the gambling enterprise whether or not the commission takes action against the license of the gambling enterprise.

(c) Approve or disapprove transactions, events, and processes as provided in this chapter.

(d) Take actions deemed to be reasonable to ensure that no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled gambling activities.

(e) Take actions deemed to be reasonable to ensure that gambling activities take place only in suitable locations.

(f) Grant temporary licenses, permits, or approvals on appropriate terms and conditions.

(g) Institute a civil action in any superior court against any person subject to this chapter to restrain a violation of this chapter. An action brought against a person pursuant to this section does not preclude a criminal action or administrative proceeding against that person by the Attorney General or any district attorney or city attorney.

(h) Issue subpoenas to compel attendance of witnesses and production of documents and other material things at a meeting or hearing of the commission or its committees, including advisory committees.

SEC. 4. Section 19841 of the Business and Professions Code is amended to read:

19841. The regulations adopted by the commission shall do all of the following:

(a) With respect to applications, registrations, investigations, and fees, the regulations shall include, but not be limited to, provisions that do all of the following:

(1) Prescribe the method and form of application and registration.

(2) Prescribe the information to be furnished by any applicant, licensee, or registrant concerning, as appropriate, the person's personal history, habits, character, associates, criminal record, business activities, organizational structure, and financial affairs, past or present.

(3) Prescribe the information to be furnished by an owner licensee relating to the licensee's gambling employees.

(4) Require fingerprinting or other methods of identification of an applicant, licensee, or employee of a licensee.

(5) Prescribe the manner and method of collection and payment of fees and issuance of licenses.

(b) Provide for the approval of game rules and equipment by the department to ensure fairness to the public and compliance with state laws.

(c) Implement the provisions of this chapter relating to licensing and other approvals.

(d) Require owner licensees to report and keep records of transactions, including transactions as determined by the department, involving cash or credit. The regulations may include, without limitation, regulations requiring owner licensees to file with the department reports similar to those required by Sections 5313 and 5314 of Title 31 of the United States Code, and by Sections 103.22 and 103.23 of Title 31 of the Code of Federal Regulations, and any successor provisions thereto, from financial institutions, as defined in Section 5312 of Title 31 of the United States Code and Section 103.11 of Title 31 of the Code of Federal Regulations, and any successor provisions.

(e) Provide for the receipt of protests and written comments on an application by public agencies, public officials, local governing bodies, or residents of the location of the gambling establishment or future gambling establishment.

(f) Provide for the disapproval of advertising by licensed gambling establishments that is determined by the department to be deceptive to the public. Regulations adopted by the commission for advertising by licensed gambling establishments shall be consistent with the advertising regulations

adopted by the California Horse Racing Board and the Lottery Commission. Advertisement that appeals to children or adolescents or that offers gambling as a means of becoming wealthy is presumptively deceptive.

(g) Govern all of the following:

(1) The extension of credit.

(2) The cashing, deposit, and redemption of checks or other negotiable instruments.

(3) The verification of identification in monetary transactions.

(h) Prescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs, which shall include, but not be limited to, provisions for all of the following:

(1) The safeguarding of assets and revenues, including the recording of cash and evidences of indebtedness.

(2) Prescribing the manner in which compensation from games and gross revenue shall be computed and reported by an owner licensee.

(3) The provision of reliable records, accounts, and reports of transactions, operations, and events, including reports to the department.

(i) Provide for the adoption and use of internal audits, whether by qualified internal auditors or by certified public accountants. As used in this subdivision, “internal audit” means a type of control that operates through the testing and evaluation of other controls and that is also directed toward observing proper compliance with the minimum standards of control prescribed in subdivision (h).

(j) Require periodic financial reports from each owner licensee.

(k) Specify standard forms for reporting financial conditions, results of operations, and other relevant financial information.

(l) Formulate a uniform code of accounts and accounting classifications to ensure consistency, comparability, and effective disclosure of financial information.

(m) Prescribe intervals at which the information in subdivisions (j) and (k) shall be furnished to the department.

(n) Require audits to be conducted, in accordance with generally accepted auditing standards, of the financial statements of all owner licensees whose annual gross revenues equal or exceed a specified sum. However, nothing herein shall be construed to limit the department’s authority to require audits of any owner licensee. Audits, compilations, and reviews provided for in this subdivision shall be made by independent certified public accountants licensed to practice in this state.

(o) Restrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling, consistent with the purposes of this chapter.

(p) Define and limit the area, games, hours of operation, number of tables, wagering limits, and equipment permitted, or the method of operation of games and equipment, if the commission, upon the recommendation of, or in consultation with, the department, determines that local regulation of these subjects is insufficient to protect the health, safety, or welfare of residents in geographical areas proximate to a gambling establishment.

(q) Prohibit gambling enterprises from cashing checks drawn against any federal, state, or county fund, including, but not limited to, social security, unemployment insurance, disability payments, or public assistance payments. However, a gambling enterprise shall not be prohibited from cashing any payroll checks or checks for the delivery of goods or services that are drawn against a federal, state, or county fund.

(r) Provide for standards, specifications, and procedures governing the manufacture, distribution, including the sale and leasing, inspection, testing, location, operation, repair, and storage of gambling equipment, and for the licensing of persons engaged in the business of manufacturing, distributing, including the sale and leasing, inspection, testing, repair, and storage of gambling equipment.

(s) By December 31, 2011, provide procedures, criteria, and timelines for the processing and approval of applications for the licensing, temporary or interim licensing, or findings of suitability for receivers, trustees, beneficiaries, executors, administrators, conservators, successors in interest, or security interest holders for a gambling enterprise so that gambling enterprises may operate continuously in cases including, but not limited to, the death, insolvency, foreclosure, receivership, or incapacity of a licensee.

SEC. 5. Section 19846 of the Business and Professions Code is amended to read:

19846. (a) Notwithstanding any other provision of law and except as provided in subdivision (b), a gambling enterprise that ejects or excludes an individual based upon Section 19844 or 19845 is not subject to civil liability for a mistake as to the grounds for ejecting or excluding a person if the ejection or exclusion was based upon a reasonable and good faith belief, after a reasonable investigation, that these sections applied to the individual in question.

(b) Notwithstanding subdivision (a), a gambling enterprise may not be relieved from liability for any damages arising from the means of ejection or exclusion.

SEC. 6. Section 19851 of the Business and Professions Code is amended to read:

19851. (a) The owner of a gambling enterprise shall apply for and obtain a state gambling license. The owner of a gambling enterprise shall be known as the owner-licensee.

(b) Other persons who also obtain a state gambling license, as required by this chapter, shall not receive a separate license certificate, but the license of every such person shall be endorsed on the license certificate that is issued to the owner of the gambling enterprise.

SEC. 7. Section 19852 of the Business and Professions Code is amended to read:

19852. Except as provided in Section 19852.2, an owner of a gambling enterprise that is not a natural person shall not be eligible for a state gambling license unless each of the following persons individually applies for and obtains a state gambling license:

(a) If the owner is a corporation, then each officer, director, and shareholder, other than a holding or intermediary company, of the owner. The foregoing does not apply to an owner that is either a publicly traded racing association or a qualified racing association.

(b) If the owner is a publicly traded racing association, then each officer, director, and owner, other than an institutional investor, of 5 percent or more of the outstanding shares of the publicly traded corporation.

(c) If the owner is a qualified racing association, then each officer, director, and shareholder, other than an institutional investor, of the subsidiary corporation and any owner, other than an institutional investor, of 5 percent or more of the outstanding shares of the publicly traded corporation.

(d) If the owner is a partnership, then every general and limited partner of, and every trustee or person, other than a holding or intermediary company, having or acquiring a direct or beneficial interest in, that partnership owner.

(e) If the owner is a trust, then the trustee and, in the discretion of the commission, any beneficiary and the trustor of the trust.

(f) If the owner is a limited liability company, every officer, manager, member, or owner.

(g) If the owner is a business organization other than a corporation, partnership, trust, or limited liability company, then all those persons as the commission may require, consistent with this chapter.

(h) Each person who receives, or is to receive, any percentage share of the revenue earned by the owner from gambling activities.

(i) Every employee, agent, guardian, personal representative, lender, or holder of indebtedness of the owner who, in the judgment of the commission, has the power to exercise a significant influence over the gambling operation.

SEC. 8. Section 19868 of the Business and Professions Code is amended to read:

19868. (a) Within a reasonable time after the filing of an application and any supplemental information the department may require, and the deposit of any fee required pursuant to Section 19867, the department shall commence its investigation of the applicant and, for that purpose, may conduct any proceedings it deems necessary. To the extent practicable, all applications shall be acted upon within 180 calendar days of the date of submission of a completed application. If an investigation has not been concluded within 180 days after the date of submission of a completed application, the department shall inform the applicant in writing of the status of the investigation and shall also provide the applicant with an estimated date on which the investigation may reasonably be expected to be concluded.

(b) If denial of the application, or approval of the license with restrictions or conditions on the license, is recommended, the chief shall prepare and file with the commission his or her written reasons upon which the recommendation is based.

(1) Prior to filing his or her recommendation with the commission, the chief shall meet with the applicant, or the applicant's duly authorized

representative, and inform him or her generally of the basis for any proposed recommendation that the application be denied, restricted, or conditioned.

(2) Not less than 10 business days prior to the meeting of the commission at which the application is to be considered, the department shall deliver to the applicant a summary of the chief's final report and recommendation.

(3) This section requires the department neither to divulge to the applicant any confidential information received from any law enforcement agency or any information received from any person with assurances that the information would be maintained confidential, nor to divulge any information that might reveal the identity of any informer or jeopardize the safety of any person.

(c) If a restriction or condition on the license is recommended, the chief shall prepare and file with the commission his or her written reasons upon which the recommendation is based.

(1) Prior to filing his or her recommendation with the commission, and not less than 10 business days prior to the meeting of the commission at which the application is to be considered, the chief shall inform the applicant in writing generally of the basis for any proposed recommendation that the application be restricted or conditioned, including the legal and factual grounds on which the recommendation is based.

(2) This section does not require the department to divulge to the applicant any confidential information received from any law enforcement agency or any information received from any person with assurances that the information would be maintained confidential, or to divulge any information that might reveal the identity of any informer or jeopardize the safety of any person.

(d) A recommendation of denial of an application shall be without prejudice to a new and different application filed in accordance with applicable regulations.

SEC. 9. Section 19880 of the Business and Professions Code is amended to read:

19880. In addition to the requirements of Section 19852, in order to be eligible to receive a gambling license as the owner of a gambling enterprise, a corporation shall comply with all of the following requirements:

(a) Maintain an office of the corporation in the gambling establishment.

(b) Comply with all of the requirements of the laws of this state pertaining to corporations.

(c) Maintain, in the corporation's principal office in California or in the gambling establishment, a ledger that meets both of the following conditions:

(1) At all times reflects the ownership of record of every class of security issued by the corporation.

(2) Is available for inspection by the department at all reasonable times without notice.

(d) Supply supplemental forms and information, in accordance with Section 19865, with the initial license application, and thereafter only on request, to the department, which shall include, but not be limited to, all of the following:

(1) The organization, financial structure, and nature of the business to be operated, including the names, personal and criminal history, and fingerprints of all officers and directors, and the names, addresses, and number of shares held by all stockholders of record.

(2) The rights and privileges acquired by the holders of different classes of authorized securities, including debentures.

(3) The terms on which securities are to be offered.

(4) The terms and conditions on all outstanding loans, mortgages, trust deeds, pledges, or any other indebtedness or security interest.

(5) The extent of the equity security holdings in the corporation of all officers, directors, and underwriters, and their remuneration as compensation for services, in the form of salary, wages, fees, or otherwise.

(6) The amount of remuneration to persons other than directors and officers in excess of one hundred thousand dollars (\$100,000) per annum.

(7) Bonus and profit-sharing arrangements.

(8) Management, consultant, and service contracts related to the operation of controlled gaming.

(9) Options existing, or to be created, in respect of their securities or other interests.

(10) Financial statements for at least three fiscal years preceding the year of registration, or, if the corporation has not been in existence for a period of three years, financial statements from the date of its formation. All financial statements shall be prepared in accordance with generally accepted accounting principles and audited by a licensee of the California Board of Accountancy.

(11) Any further financial data that the department, with the approval of the commission, may deem necessary or appropriate for the protection of the state.

(12) An annual profit-and-loss statement and an annual balance sheet, and a copy of its annual federal income tax return, within 30 calendar days after that return is filed with the Internal Revenue Service.

SEC. 10. Section 19882 of the Business and Professions Code is amended to read:

19882. (a) If at any time the commission denies a license to, or revokes the license of, an individual owner of any security issued by a corporation that applies for or holds an owner license, the commission shall immediately notify the individual and the corporation of that fact. The owner of the security shall sell the security for an amount not greater than fair market value, within 60 calendar days of the denial or revocation. Upon a showing of due diligence, the commission may extend the time for selling the security.

(b) Beginning upon the date when the commission serves notice of the denial upon the corporation, it is unlawful for the denied security owner to do any of the following:

(1) Receive any dividend, income, or interest upon any security described in subdivision (a), except dividends equal to the good faith estimate of the owner's personal share of any income tax due on the ownership interest until the date of the sale, as determined in writing by an independent certified

public accountant, or as may be necessary to protect the election of the gambling enterprise to be treated as an “S corporation” under Subchapter S (commencing with Section 1361) of Chapter 1 of Subtitle A of the Internal Revenue Code.

(2) Exercise, directly or through any trustee or nominee, any voting right conferred by any security described in subdivision (a).

(3) Receive any remuneration in any form from the corporation for services rendered or for any other purpose.

(c) Every security issued by a corporate owner licensee shall bear a statement, on both sides of the certificate evidencing the security, of the restrictions imposed by this section.

SEC. 11. The heading of Article 6 (commencing with Section 19890) of Chapter 5 of Division 8 of the Business and Professions Code is amended to read:

Article 6. Licensing of Partnerships and Limited Liability Companies

SEC. 12. Section 19890 of the Business and Professions Code is amended to read:

19890. In addition to the requirements of Section 19852, in order to be eligible to receive a gambling license to own a gambling enterprise, a partnership shall comply with all of the following requirements:

(a) Be registered as may be required under the laws of this state.

(b) Maintain an office of the partnership in the gambling establishment.

(c) Comply with all of the requirements of the laws of this state pertaining to partnerships.

(d) Maintain an ongoing ledger in an office of the partnership in California that shall meet both of the following conditions:

(1) At all times reflects the ownership of all interests in the partnership.

(2) Be available for inspection by the department at all reasonable times without notice.

(e) Supply the following supplemental forms and information in accordance with Section 19865 with the initial license application, and thereafter upon request, to the department, which shall include, but not be limited to:

(1) The organization, financial structure, and nature of the business to be operated, including the name, address, personal history, interest, and fingerprints of each partner and manager.

(2) The rights, privileges, and relative priorities of any partners as to the return of contributions to capital, and the right to receive income, accept losses, and incur liabilities.

(3) The terms on which partnership interests are to be offered.

(4) The terms and conditions on all outstanding loans, mortgages, trust deeds, pledges, or any other indebtedness or security interest.

(5) The extent of the holding in the partnership of all underwriters, and their remuneration as compensation for services, in the form of salary, wages, fees, or otherwise.

(6) The remuneration to persons other than general partners in excess of one hundred thousand dollars (\$100,000) per annum.

(7) Bonus and profit-sharing arrangements.

(8) Management, consulting, and service contracts related to the operation of controlled gambling.

(9) Options existing or to be created.

(10) Financial statements for at least three fiscal years preceding the year of registration, or, if the partnership has not been in existence for a period of three years, financial statements from the date of its formation. All financial statements shall be prepared in accordance with generally accepted accounting principles and audited by a licensee of the California Board of Accountancy in accordance with generally accepted auditing standards.

(11) Any further financial data that the department reasonably deems necessary or appropriate for the protection of the state.

(12) An annual profit-and-loss statement, an annual balance sheet, and a copy of its annual federal income tax return, within 30 calendar days after the return is filed with the Internal Revenue Service.

SEC. 13. Section 19890.5 is added to the Business and Professions Code, to read:

19890.5. In addition to the requirements of Section 19852, in order to be eligible to receive a gambling license to own a gambling enterprise, a limited liability company shall comply with all of the following requirements:

(a) Be registered to do business in California.

(b) Maintain an office in the gambling establishment.

(c) Comply with all of the requirements of the laws of this state pertaining to a limited liability company.

(d) Maintain an ongoing ledger in an office of the limited liability company in California that shall meet both of the following conditions:

(1) At all times reflect the ownership, membership, and management interests.

(2) Be available for inspection by the department at all reasonable times without notice.

(e) Supply the following supplemental forms and information in accordance with Section 19865 with the initial application, and thereafter upon request to the department, which shall include, but not be limited to, all of the following:

(1) The organization, financial structure, and nature of the business to be operated, including the names, personal and criminal history, and fingerprints of all members and managers, and the name, address, and interest of each owner, member, and manager.

(2) The rights, privileges, and relative priorities of members as to the return of contributions to capital, and the right to receive income, accept losses, and incur liabilities.

- (3) The terms on which membership interests are to be offered.
- (4) The terms and conditions on all outstanding loans, mortgages, trust deeds, pledges, or any other indebtedness or security interest.
- (5) The extent of the holding in the limited liability company of all underwriters, and their remuneration as compensation for services, in the form of salary, wages, fees, or otherwise.
- (6) The remuneration to persons other than managers or members in excess of one hundred thousand dollars (\$100,000) per annum.
- (7) Bonus and profit-sharing arrangements.
- (8) Management, consulting, and service contracts related to the operation of controlled gambling.
- (9) Options existing or to be created.
- (10) Financial statements for at least three fiscal years preceding the year of application, or, if the limited liability company has not been in existence for a period of three years, financial statements from the date of its formation. All financial statements shall be prepared in accordance with generally accepted accounting principles and audited by a licensee of the California Board of Accountancy in accordance with generally accepted auditing standards.
- (11) Any further financial data that the department reasonably deems necessary or appropriate for the protection of the state.
- (12) An annual profit-and-loss statement, an annual balance sheet, and a copy of its annual federal income tax return, within 30 calendar days after the return is filed with the Internal Revenue Service.

SEC. 14. Section 19892 of the Business and Professions Code is amended to read:

19892. (a) The purported sale, assignment, transfer, pledge, or other disposition of any interest in a partnership or limited liability company that holds a gambling license, or the grant of an option to purchase the interest, is void unless approved in advance by the commission.

(b) If at any time the commission denies a license to, or revokes the license of, an individual owner of any interest described in subdivision (a), the commission shall immediately notify the individual and the partnership or limited liability company of that fact. The individual denied a license, or whose license is revoked, shall sell his or her interest in an amount not greater than fair market value, within 60 calendar days of the denial or revocation. Upon a showing of due diligence, the commission may extend the time for selling the security.

(c) Beginning upon the date when the commission serves a notice of denial upon the partnership or limited liability company, it is unlawful for the denied owner of the interest to do any of the following:

(1) Receive any share of the revenue or interest upon the partnership or limited liability company interest, except distributions equal to the good faith estimate of the owner's personal share of any income tax due on the ownership interest until the date of the sale as determined in writing by an independent certified public accountant.

(2) Exercise, directly or through any trustee or nominee, any voting right conferred by that interest.

(3) Receive any remuneration in any form from the partnership, for services rendered or for any other purpose.

(d) Every certificate of limited partnership of any limited partnership or limited liability company holding a gambling license shall contain a statement of the restrictions imposed by this section.

SEC. 15. Section 19893 of the Business and Professions Code is amended to read:

19893. To the extent required by this chapter, general partners, limited partners, lenders, members, managers, holders of evidence of indebtedness, underwriters, agents, or employees of a partnership or limited liability company that holds or applies for a license to own a gambling enterprise shall be licensed individually. The partnership or limited liability company shall require these persons to apply for and obtain a gambling license. A person who is required to be licensed by this section as a partner, manager, or member shall not hold that position until he or she secures the required approval of, or a temporary license issued by, the commission. A person who is required to be licensed pursuant to a decision of the commission shall apply for a license within 30 days after the commission requests him or her to do so.

SEC. 16. Section 19900 of the Business and Professions Code is amended to read:

19900. (a) Except as may be provided by regulation of the commission, the following security interests shall not be enforced without the prior approval of the commission and compliance with regulations adopted pursuant to subdivision (b):

(1) In a security issued by a corporation that is a holder of a gambling license in this state.

(2) In a security issued by a holding company that is not a publicly traded corporation.

(3) In a security issued by a partnership, limited partnership, or limited liability company that is a holder of a gambling license in this state.

(b) The commission shall adopt regulations establishing the procedure for the enforcement of a security interest. Any remedy provided by the regulations for the enforcement of the security interest is in addition to any other remedy provided by law.

SEC. 17. Section 19912 of the Business and Professions Code is amended to read:

19912. (a) (1) A person shall not be employed as a gambling enterprise employee, or serve as an independent agent, except as provided in paragraph (2), unless he or she is the holder of one of the following:

(A) A valid work permit issued in accordance with the applicable ordinance or regulations of the county, city, or city and county in which his or her duties are performed.

(B) A work permit issued by the commission pursuant to regulations adopted by the commission for the issuance and renewal of work permits. A work permit issued by the commission shall be valid for two years.

(2) An independent agent is not required to hold a work permit if he or she is not a resident of this state and has registered with the department in accordance with regulations.

(b) A work permit shall not be issued by any city, county, or city and county to any person who would be disqualified from holding a state gambling license for the reasons specified in subdivisions (a) to (g), inclusive, of Section 19859.

(c) The department may object to the issuance of a work permit by a city, county, or city and county for any cause deemed reasonable by the department, and if the department objects to issuance of a work permit, the work permit shall be denied.

(1) The commission shall adopt regulations specifying particular grounds for objection to issuance of, or refusal to issue, a work permit.

(2) The ordinance of any city, county, or city and county relating to issuance of work permits shall permit the department to object to the issuance of any permit.

(3) Any person whose application for a work permit has been denied because of an objection by the department may apply to the commission for an evidentiary hearing in accordance with regulations.

(d) Application for a work permit for use in any jurisdiction where a locally issued work permit is not required by the licensing authority of a city, county, or city and county shall be made to the commission, and may be granted or denied for any cause deemed reasonable by the commission. If the commission denies the application, it shall include in its notice of denial a statement of facts upon which it relied in denying the application. Upon receipt of an application for a work permit, the commission may issue a temporary work permit for a period not to exceed 120 days, pending completion of the background investigation by the department and official action by the commission with respect to the work permit application.

(e) An order of the commission denying an application for, or placing restrictions or conditions on, a work permit, including an order declining to issue a work permit following review pursuant to paragraph (3) of subdivision (c), may be reviewed in accordance with subdivision (e) of Section 19870.

SEC. 18. Section 19921 of the Business and Professions Code is amended to read:

19921. (a) No person under 21 years of age shall be permitted to enter upon the premises of a licensed gambling establishment, or any part thereof, except the following:

(1) An area, physically separated from any gambling area, for the exclusive purpose of dining. For purposes of this subdivision, any place wherein food or beverages are dispensed primarily by vending machines shall not constitute a place for dining.

(2) Restrooms.

(3) A supervised room that is physically separated from any gambling area and used primarily for the purpose of entertainment or recreation.

(4) A designated pathway to reach any of the areas described in paragraphs (1) to (3), inclusive. To the extent that the designated pathway requires an individual to enter upon or pass through the gaming floor, all persons under 21 years of age shall be accompanied by a person over 21 years of age or be in the presence of a gambling establishment employee over 21 years of age.

(b) No person under 21 years of age shall be permitted to loiter in a gaming area.

SEC. 19. Section 19932 of the Business and Professions Code is amended to read:

19932. (a) Any person aggrieved by a final decision or order of the commission that limits, conditions, suspends, or revokes any previously granted license or approval, made after hearing by the commission, may petition the Superior Court for the County of Sacramento for judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and Section 11523 of the Government Code. Notwithstanding any other provision of law, the standard set forth in paragraph (1) of subdivision (h) of Section 1094.5 of the Code of Civil Procedure shall apply for obtaining a stay of the operation of a final decision or order of the commission. In every case where it is claimed that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in light of the whole record.

(b) The court may summarily deny the petition, or the court may issue an alternative writ directing the commission to certify the whole record in the case to the court within a time specified. No new or additional evidence shall be introduced in the court, but, if an alternative writ issues, the cause shall be heard on the whole record as certified by the commission.

(c) In determining the cause following issuance of an alternative writ, the court shall enter judgment affirming, modifying, or reversing the order of the commission, or the court may remand the case for further proceedings before, or reconsideration by, the commission.

(d) Except as otherwise provided in Section 19870 and subdivision (e) in Section 19912, this section provides the exclusive means to review adjudicatory decisions of the commission.

SEC. 20. Section 19941 of the Business and Professions Code is amended to read:

19941. (a) A person under 21 years of age shall not do any of the following:

(1) Play, be allowed to play, place wagers at, or collect winnings from, whether personally or through an agent, any gambling game.

(2) Be employed as an employee in a licensed gambling establishment except in a parking lot, coffee shop, restaurant, business office, or other similar room, as determined by regulations, wherein no gambling activity or activity directly associated with gambling takes place.

(3) Present or offer to any licensee, or to an agent of a licensee, any written, printed, or photostatic evidence of age and identity that is false, fraudulent, or not actually his or her own for the purpose of doing any of the things described in paragraphs (1) and (2).

(4) Loiter in or about any room in which any gambling game is operated or conducted.

(b) Any licensee or employee in a gambling establishment who violates or permits the violation of paragraphs (1) to (3), inclusive, of subdivision (a) is guilty of a misdemeanor.

(c) Any person under 21 years of age who violates this section is guilty of a misdemeanor.

(d) Proof that a licensee, or agent or employee of a licensee, demanded, was shown, and acted in reliance upon bona fide evidence of age and identity shall be a defense to any criminal prosecution under this section or to any proceeding for the suspension or revocation of any license or work permit based thereon. For the purposes of this section, “bona fide evidence of age and identity” means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator’s license or an identification card issued to a member of the Armed Forces, that contains the name, date of birth, description, and picture of the person.

SEC. 21. Section 19966 is added to the Business and Professions Code, to read:

19966. If a gambling establishment is located in an unincorporated area annexed by a city, notwithstanding Section 19960 or 19962, without a local election other than the election to approve the annexation, the city acquiring jurisdiction may adopt an ordinance permitting and regulating controlled gaming in the existing gambling establishment, providing hours of operation, the games to be played, wagering limits, the maximum number of gambling establishments, and the maximum number of tables permitted in each gambling establishment, the same as those limits in any ordinance or resolutions that formerly applied to the gambling establishment. Where this article refers to an expansion of gaming as compared to that permitted on January 1, 1996, for the purposes of this section, that reference shall be to the ordinance or resolutions that governed the gambling establishment as of that date.

SEC. 22. Section 19984 of the Business and Professions Code is amended to read:

19984. Notwithstanding any other law, a licensed gambling enterprise may contract with a third party for the purpose of providing proposition player services at a gambling establishment, subject to the following conditions:

(a) Any agreement, contract, or arrangement between a gambling enterprise and a third-party provider of proposition player services shall be approved in advance by the department, and in no event shall a gambling enterprise or the house have any interest, whether direct or indirect, in funds wagered, lost, or won.

(b) The commission shall establish reasonable criteria for, and require the licensure and registration of, any person or entity that provides proposition player services at gambling establishments pursuant to this section, including owners, supervisors, and players. Those employed by a third-party provider of proposition player services, including owners, supervisors, observers, and players, shall wear a badge which clearly identifies them as proposition players whenever they are present within a gambling establishment. The commission may impose licensing requirements, disclosures, approvals, conditions, or limitations as it deems necessary to protect the integrity of controlled gambling in this state, and may assess and collect reasonable fees and deposits as necessary to defray the costs of providing this regulation and oversight.

(c) The department, pursuant to regulations of the commission, is empowered to perform background checks, financial audits, and other investigatory services as needed to assist the commission in regulating third party providers of proposition player services, and may assess and collect reasonable fees and deposits as necessary to defray the costs of providing this regulation and oversight. The department may adopt emergency regulations in order to implement this subdivision.

(d) No agreement or contract between a licensed gambling enterprise and a third party concerning the provision of proposition player services shall be invalidated or prohibited by the department pursuant to this section until the commission establishes criteria for, and makes determinations regarding the licensure or registration of, the provision of these services pursuant to subdivision (b).

SEC. 23. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.